



February 16, 2017

BY ELECTRONIC FILING

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: NOTICE OF EX PARTE

WT Docket No. 10-208: *Universal Service Reform – Mobility Fund*

WC Docket No. 10-90: *Connect America Fund*

Dear Chairman Pai:

We write in support of a letter sent to Chairman Pai earlier this week by top executives at eighteen wireless carriers representing rural and regional interests across rural and remote portions of the United States (“Executive Letter”).¹ In chorus with these eighteen companies, we similarly express our support for the Federal Communications Commission’s (“FCC” or “Commission”) focus to extend digital opportunities to all areas of the United States.² We agree that reasonable reforms to Universal Service Funding (“USF”) programs will help to both preserve and expand consumer-demanded wireless services in rural America. However, the proposed Mobility Fund II Order, as we understand it, will dilute these efforts and thwart advances to bridge the digital divide by creating uncertainty and undermine business decisions. We therefore echo requests that the Commission thoughtfully consider the economic impact to businesses when revising the Mobility Fund II program. Doing so will provide certainty to make foundational decisions necessary for our business models, including budgeting for operations, upgrades, and expansion of the latest mobile technologies over the next several years.

¹ See Letter from W. Allen Gillum, CEO & General Manager, Appalachian Wireless, et al., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90 (filed Feb. 14, 2017) (“Executive Letter”).

² See Chairman Ajit Pai, *Closing Digital Divides, Boosting Broadcasting, and Reducing Regulatory Burdens*, Medium Blog, (Feb. 2, 2017), available at <https://medium.com/@AjitPaiFCC/closing-digital-divides-boosting-broadcasting-and-reducing-regulatory-burdens-cf911ee5cf16#.mt53uhby0>; and Commissioner Michael O’Rielly, *Federal Broadband Infrastructure Spending: Potential Pitfalls*, FCC Blog, (Feb. 1, 2017), available at <https://www.fcc.gov/news-events/blog/2017/02/01/federal-broadband-infrastructure-spending-potential-pitfalls>. See also Remarks of Commissioner Ajit Pai, *A Digital Empowerment Agenda*, The Brandery, Cincinnati, Ohio (Sept. 13, 2016).

As addressed in the Executive Letter, it is imperative that the FCC employ the most accurate measurement analyses to identify gaps in service coverage and determine which areas of the United States will be eligible for Mobility Fund II support.³ The record supports this narrative, and the Form 477 data cannot be confidently applied to achieve the Commission's goals.⁴

Further conflating the problem, the use of a challenge process that relies on fundamentally flawed data places a burden on challengers to disprove coverage across millions of square miles in a short timeframe that will leave huge coverage gaps in rural America. We understand and appreciate the Commission's attention to its own fiscal demands associated with implementing USF programs. It is precisely this premise that should be applied to ensure that finite resources are allocated appropriately. At the very least, the Commission must recognize that competitive carriers have finite resources and cannot afford to engage in superfluous challenges for areas where Form 477 data grossly underestimates current gaps in coverage.⁵ Absent significant improvements to the underlying data, we are concerned that significant swaths of rural areas may never receive service because of an incorrect perception that they are already served.

Equally threatening is the Commission's intent to apply this faulty data to immediately eviscerate existing USF support in many areas where it is essential. We agree that the Commission's plan "fails a fundamental test of sound fiscal stewardship by undermining the connectivity gains achieved by existing policy."⁶ Recognizing efforts to budget responsibly, our companies forecast three to five years in advance to build facilities, and plan for technology and network upgrades. Our companies similarly have invested millions of private capital to extend coverage throughout our

³ See *supra*, note 1 at 2.

⁴ See *ex parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90 (filed Feb. 9, 2017); *ex parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (filed Nov. 4, 2016); and *ex parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (filed Nov. 3, 2016).

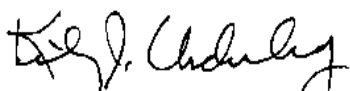
⁵ See Letter from Sens. Wicker (R-MS), Manchin (D-WV), Baldwin (D-WY), Blunt (R-MO), Burr (R-NC), Capito (R-WV), Daines (R-MT), Ernst (R-IA), Fischer (R-NE), Gardner (R-CO), Heitkamp (D-ND), Johnson (R-WI), King (I-ME), Klobuchar, (D-MN), McCaskill (D-MO), Moran (R-KS), Peters (D-MI), Roberts (R-KS), Rubio (R-FL), Tillis (R-FL), Vitter (R-LA), Warner (D-VA), Wyden (D-OR), Cochran (R-MS), Boozman (R-AR), Kirk (R-IL), U.S. Senate, to The Hon. Tom Wheeler, Chairman, Federal Communications Commission (July 11, 2016), *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-341429A2.pdf (Noting that "[i]mportantly, the FCC must rely on realistic measurements of network experience on the ground to determine areas to support."). See also Letter from Sens. Blunt, Wicker, Moran, Ayotte (R-NH), and Fischer, U.S. Senate, to The Hon. Tom Wheeler, Chairman, Federal Communications Commission (Oct. 24, 2014) ("Ubiquitous, advanced mobile services remain a challenge, and considerable gaps persist in many rural areas."). All stakeholders, including States/municipalities, wireless providers, and consumers, should be provided an opportunity to correct specific coverage inaccuracies prior to allocating funds.

⁶ Executive Letter at 3.

network footprints. Rather than dismiss these efforts, we ask that the Commission follow Congress's directive⁷ and incorporate certainty for businesses in its Mobility Fund II plan.

Deployment of mobile broadband, and the service itself, is a significant economic driver that is even more pronounced in rural America. We look forward to continued work with the Commission to promote ubiquitous mobile broadband service to all Americans. Please do not hesitate to contact us or our trade association representatives at Competitive Carriers Association should you have any questions.⁸

Respectfully submitted,



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/s/ Jonathan Kriegel

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Hon. Mignon Clyburn
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Rachael Bender
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Claude Aiken

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Alexander Minard
Ryan Palmer
Jim Schlichting
Paroma Sanyal
Charles Eberle

⁷ See *supra*, note 5. See also Letter from Sens. Roger Wicker (R-Miss.), Joe Manchin (D-W.Va.), Tammy Baldwin (D-Wis.), Michael F. Bennet (D-Colo.), Roy Blunt (R-Mo.), Richard Burr (R-N.C.), Maria Cantwell (D-Wash.), Shelley Moore Capito (R-W.Va.), Bob Casey (D-Pa.), Thad Cochran (R-Miss.), Catherine Cortez Masto (D-Nev.), Dick Durbin (D-Ill.), Joni Ernst (R-Iowa), Deb Fischer (R-Neb.), Al Franken (D-Minn.), Cory Gardner (R-Colo.), Heidi Heitkamp (D-N.D.), Dean Heller (R-Nev.), John Hoeven (R-N.D.), Ron Johnson (R-Wis.), Angus King (I-Maine), Amy Klobuchar (D-Minn.), Jeff Merkley (D-Ore.), Jerry Moran (R-Kan.), Gary Peters (D-Mich.), Pat Roberts (R-Kan.), Thom Tillis (R-N.C.), Elizabeth Warren (D-Mass.), Ron Wyden (D-Ore.), and Todd Young (R-Ind.), U.S. Senate, to The Hon. Ajit Pai, Chairman, Federal Communications Commission (Feb. 2, 2017).

⁸ This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's Rules.